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No. 84-1190

IN THE

Supreme Court of the United States

OCTOBER TERM 1984

PATRICK J. WELLS,

Petitioner,

—against—

DAVID ROCKEFELLER, LAURANCE ROCKEFELLER, ROCK-RESORTS, INC., FOUNTAIN VALLEY CORPORATION, and ESTATE FOUNTAIN RIVER COMPANY,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

REPLY BRIEF

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QUESTION PRESENTED

There is not a Virgin Islands statute or provision of a restatement directly addressing the issue raised by Wells.

There is a split of authority on when the limitations period for civil conspiracy commences.

Some courts apply the rule used in criminal cases, that is, the limitations period begins on the commission of the last overt act of the conspiracy.

Other jurisdictions, including those of the third circuit have applied the rule that the period runs from each overt act causing damage.

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1 V.I. Code § 4 2,3

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REPLY BRIEF

Petitioner Patrick J. Wells submits this Reply Brief to Respondents David Rockefeller, Laurance Rockefeller, Rockresorts Inc. ("Rockresorts"), Fountain Valley Corporation (FVC) and Estate Fountain River Company ("EFRC") in reply to their Brief in Opposition to Patrick J. Wells, Petitioner for a Writ of Certiorari.

REASONS FOR GRANTING THE WRIT

There is not a Virgin Islands statute or provision of restatement directly addressing the issue raised by Petitioner.

There is a split of authority on when the limitations period for a civil conspiracy commences.

Some courts apply the rule used in criminal cases, that is, the limitations period begins on the commission of the last overt act of conspiracy.

Other jurisdictions, including those of the third circuit have applied the rule that the period runs from each overt act causing damage. 728 F.2d at 217.

Under the law of the Virgin Islands, the method for determining the appropriate rule of decision in such a case as this is provided for by statute. Section 4 of Title 1 of the Virgin Islands Code, upon which the Third Circuit Court of Appeals relied provides this:

> The rules of the common law, as expressed in the restatements of the law approved by the American Law Institute, and to the extent not so expressed, as generally

> understood and applied in the United States, shall be the rules of decision in the courts of the Virgin Islands in cases to which they apply, in the absence of local laws to the contrary.

In holding that the limitations period in the Virgin Islands for a civil conspiracy commences with each overt act causing damage, the Third Circuit Court of Appeals is determining the local common law rule of decision in the courts of the Virgin Islands.

How can this be when the rules of the common law approved by the American Law Institute says, as generally understood and applied in the United States.

The Third Circuit Court in their determining of the Local Common Law have applied the rule that they used in their section - Part of the United States. This doesn't seem right or fair, if the United States Courts in some other areas can apply the other version of the rule, couldn't the whole country have the same rule. Sup. Ct. R. 17(a).

"Special and important reasons" are present in this issue; most ordinary citizens have a reliance on the law for the best possible equality of fairness and protection, this is of great signifi-

cance to the ordinary person who mostly does act with proper caution and is alert to the risks of a changing and complex business world. But skillful, sometimes trusted, people conspiring against them cannot always be detected and defended against and to catch them and expose them, to try and untangle things most times cannot be done in a couple of short years and as all this unfolds, things surface. The case of the Petitioner might be an overall example with long periods of time, lots of people, and several companies involved even non-recording of a deed.

Potentially, this could help in reducing on-going conspiracies; participants would act with the knowledge they did not have a short term time shield to hide behind.

Ordinary people would have a good aid and a strong deterrent to combat the elusive and the talented conspirators.

Finally, as set forth in the letter of Petitioner to the Honorable Alexander L. Stevas on April 26, 1985, the writ should be granted because in respondents' Brief in Opposition of April 11, 1985 at "Statements of the Case," much of this is very similar to the Affidavit on November 18, 1982, which I discuss in my letter at Pages 5 and 6. On Pages 3-4-5 of this Brief in Opposition, there appear to be in error 14 untrue and false things and

four inaccurate and misleading things. Respondents continue to try steamrolling me. They criticize me in their April 11 letter and ask for penalties against me. Because I was telling what I knew as the truth and they are not telling the truth, the law being the same for all of us, I ask that I be considered for the same type of requests they asked for against me.

With all due respect to all the courts and attorneys involved.

Respondents' continuing conduct is surprising and vindictive. Respondents have been untruthful and contemptible and are trying to obstruct justice.

CONCLUSION

For the reasons set forth above, Petitioner respectfully requests this Court to grant the petition for writ of certiorari and impose appropriate sanctions on Respondents.

May 4, 1985

Respectfully submitted,

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